

REMARKS

Reconsideration of the present application, as amended herein, is respectfully requested.

I. Status of the Claims

Claims 1-14 are pending, claims 1, 10, 11 and 13 having been amended herein.

Claims 10 and 11 were objected to as containing minor informalities.

Claims 1-11 and 13 were rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement and adding new matter to the application.

Claims 1, 4 and 10-14 were rejected under 35 U.S.C. 102(b) as being anticipated by Sturino (US 5,713,886).

Claims 1-3 and 10-14 were rejected under 35 U.S.C. 102(e) as being anticipated by Molas (US 2002/0078618 A1).

Claims 1-3 and 6 were rejected under 35 U.S.C. 102(b) as being anticipated by Widlund et al. (US 5,931,162).

Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sturino.

Claims 8 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund et al..

II. Objections to the Claims

The Examiner objected to claims 10 and 11 as referring to the “bending axes” as both “axes” and “lines”. Claims 10 and 11 have been amended herein to consistently use the term “bending axes”. Accordingly, it is submitted that the Examiner’s objections to claims 10 and 11 have been overcome.

III. Claim Rejections Under 35 U.S.C. 112, First Paragraph

The Examiner rejected claims 1-11 and 13 under 35 U.S.C. 112, first paragraph on the grounds that the subject matter recited in the claims was not disclosed either in the specification or in the figures, when the application was filed, in such a way to convey that the inventors, at the time the application was filed, possessed the claimed invention. Specifically, the Examiner contends that the specification and figures as originally filed fail to disclose flaps that are coextensive with the lateral centerline.

Without addressing the merits of the Examiner’s rejection, and without making any admission with respect to such rejection, claims 1 and 13 have been amended herein to state that each flap *extends substantially along the lateral centerline*. Clearly Figure 1 as originally filed shows flaps 24 and 24' extending substantially along lateral centerline 85. The specification has been amended herein to include the language now recited in claims 1 and 13 and shown in original Figure 1.

In view of the above it is submitted that the Examiner’s rejections under 35 U.S.C. 112, first paragraph, have been overcome and should be withdrawn.

IV. Claim Rejections Under 35 U.S.C. 102(b)

Prior to reviewing the Examiner's rejections in detail, a review of the present invention is in order. The present invention relates to a sanitary napkin including a central absorbent pad, the central absorbent pad having a liquid pervious cover layer, a liquid impervious barrier layer and an absorbent core between the cover layer and barrier layer. The central absorbent pad also includes a longitudinal centerline, a lateral centerline, a pair of opposite longitudinal side edges, a first distal end and an opposite second distal end, and a flap extending laterally outward from each longitudinal side edge along a line of juncture, each flap extending substantially along the lateral centerline and adapted to fold over a crotch portion of an undergarment in use. The central absorbent pad further includes two preferential bending axes, each axis being inward from and adjacent to a respective longitudinal side edge and extending obliquely with respect to the longitudinal centerline, the axes converging towards the longitudinal centerline in the first distal end of the central absorbent pad.

It is respectfully submitted that the above defined sanitary napkin is not disclosed or fairly suggested by any of the cited prior art references. It is well settled that anticipation requires "identity of invention." *Glaverbel Societe Anonyme v. Northlake Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). It is respectfully submitted that none of the cited references disclose each and every element of the claimed invention.

Claims 1, 4 and 10-14 were rejected under 35 U.S.C. 102(b) as being anticipated by Sturino (US 5,713,886). The Examiner's rejections based upon the Sturino reference are respectfully traversed.

Claim 1 has been amended herein to recite that the sanitary absorbent article according to the invention includes a central absorbent having "a flap extending laterally outward from each longitudinal side edge along a line of juncture, *each flap extending substantially along the lateral centerline*" of the central absorbent pad. (Emphasis added). The panty liner disclosed in Sturino includes "flaps" 26 and 28. However, as clearly shown in the Fig. 1, the flaps 26 and 28 do not extend substantially along the lateral centerline of the article in the manner of the claimed invention. Rather, flaps 26 and 28 are displaced towards one distal end of the article, as indicated by the length measurements of the article designated as L₁ and L₂ in Fig. 1. Moreover, the specification of Sturino, at Col. 2, ll. 29-36, states as follows:

The longitudinal distance from the from the first end to the intermediate points is about 1.5 times the distance from the second end to the intermediate points. Preferably, the length L1 of the end portion 18 of the absorbent core 12 is about five and one-quarter inches (13.3 cm) where as the length L2 of the end portion 20 is about three and one-half inches (8.9 cm).

In view of the above, it is clear that the flaps 26 and 28 disclosed in Sturino do not extend substantially along the lateral centerline of the central absorbent pad in the manner of the claimed invention as recited in amended claim 1. Since Sturino fails to disclose each element of the claimed invention, as recited in amended claim 1, it is submitted that the Examiner's rejections under 35 U.S.C. 102, based on Sturino, have been overcome. Claim 4 and 10-11 are dependent upon claim 1 and thus include all of the limitations

thereof. Thus, it is submitted that the Sturino reference also fails to anticipate the claimed invention as recited in claims 4 and 10-11.

Claims 1-3 and 10-14 were rejected under 35 U.S.C. 102(e) as being anticipated by Molas (US 2002/0078618 A1). The Examiner's rejections based upon the Molas reference are respectfully traversed.

Independent claims 1 and 12 recite that the absorbent sanitary article according to the invention includes, in part, "a pair of opposite longitudinal side edges" and "a flap extending *laterally outward from each longitudinal side edge*". (Emphasis added). The Examiner contends that Molas discloses flaps of the type recited in claim 1. Specifically, the Examiner appears to contend that the "side areas" 4 and 5, as designated in Figure 1 of Molas, correspond to the flaps as recited in claim 1. However, as clearly shown in Figure 1 of the Molas reference, the "side areas" 4 and 5 do not extend laterally outward from each longitudinal side edge of the central absorbent pad as recited in claim 1. Rather, in Molas, "side areas" 4 and 5 in fact define the longitudinal side edges of the article. Thus, it cannot be said that the flaps 4 and 5 also extend laterally outward relative these same side edges.

In view of the above it is submitted that the Molas reference fails to anticipate the claimed invention according to independent claims 1 and 12. Claims 2, 3, 6 and 7 depend either directly or indirectly from claim 1 and thus include all of the limitations thereof. Claims 13 and 14 depend from claim 12 and thus include all of the limitations thereof. In view of the above it is submitted that Molas also fails to anticipate claims 2, 3, 6, 7, 13 and 14 for the reasons set forth above.

Claims 1-3 and 6 were rejected under 35 U.S.C. 102(b) as being anticipated by Widlund et al. (US 5,931,162). The Examiner's rejections based upon the Widlund reference are respectfully traversed.

The Widlund reference purports to disclose a sanitary napkin including an absorbent pad 3, two casing sheets 1 and 2, and flexible side flaps 5 and 6. In the embodiment shown in Fig. 6 of Widlund, the sanitary napkin further includes "two longitudinally extending folds 22, 23, which are formed in the casing material between the longitudinal edges of the absorbent pad 3 and the side flaps 5, 6." (Col. 6, ll. 27-32). In the Office Action, the Examiner appears to contend that the folds 22, 23 of Widlund are equivalent to the "two preferential bending axes" as recited in claim 1. However, claim 1 recites that it is the *central absorbent pad* that includes the "two preferential bending axes". Moreover, claim 1 recites "each axis being inward from and adjacent to a respective longitudinal side edge" of the central absorbent pad. Conversely, in Widlund, the folds 22, 23 are arranged *between* the absorbent pad 3 and the side flaps 5, 6. In other words, the folds 22, 23 are arranged *outside* the longitudinal side edge of the absorbent pad 3. Thus, the folds 22, 23 cannot be considered equivalent to the "two preferential bending axes" that are arranged "*inward from* and adjacent to a respective longitudinal side edge" (emphasis added) of the central absorbent pad as recited in claim 1. Moreover, it is noted that since the folds 22, 23 in Widlund are located outside the absorbent pad 3, the absorbent pad cannot be considered to include "preferential bending axes" whatsoever. Rather, in the sanitary napkin disclosed in Widlund, it is only the flaps 5, 6 that fold, the absorbent pad 3 is not folded or bent whatsoever.

In view of the above it is submitted that the Widlund reference fails to anticipate the claimed invention according to amended claim 1. Claims 2, 3 and 6 depend either directly or indirectly from claim 1 and thus include all of the limitations thereof. Thus, it is submitted that Widlund also fails to anticipate claims 2, 3 and 6 for the reasons set forth above with respect to claim 1.

With respect to claim 6, it is further noted that the sanitary napkin disclosed in the Widlund reference fails to include a central absorbent pad having “a pair of opposite side margins, each side margin being adjacent a respective preferential bending line and adapted to fold along said respective preferential bending line”. As discussed above, the absorbent pad 3 in Widlund is not adapted to fold whatsoever. Rather, in the sanitary napkin disclosed in Widlund, it is only the flaps 5, 6 that fold, the absorbent pad 3 is not folded or bent whatsoever. Accordingly, it is submitted that the Widlund reference fails to anticipate the claimed invention as recited in claim 6.

V. Claim Rejections Under 35 U.S.C. 103(a)

Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sturino. Claim 5 is dependent upon claim 1 and therefore includes all of the limitations set forth therein. As discussed above with respect to claim 1, the Sturino reference fails to teach “a flap extending laterally outward from each longitudinal side edge along a line of juncture, each flap *extending substantially along the lateral centerline*” of the central absorbent pad as recited in claim 1. Therefore, Sturino fails to render obvious the claimed invention as recited in claim 5.

Claims 8 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund et al.. Claims 8 and 9 are dependent upon claim 1 and therefore include all of the limitations set forth therein. As discussed above with respect to claim 1, the Widlund et al. reference fails to teach a central absorbent pad “comprising two preferential bending axes, each axis being inward from and adjacent to a respective longitudinal side edge and extending obliquely with respect to the longitudinal centerline” as recited in claim 1. Therefore, Widlund fails to render obvious the claimed invention as recited in claims 8 and 9.

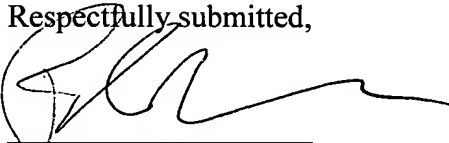
A petition for a two-month extension of time extending the time for response from December 17, 2003 until February 17, 2003 is enclosed herewith together with a Notice of Appeal. The Commissioner is hereby authorized to charge any requisite fees to Deposit Account No. 10-0750.

According to currently recommended Patent Office policy, the Examiner is authorized to contact the undersigned in the event that a telephonic interview would advance the prosecution of this application.

An early and favorable action on the merits is earnest solicited.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to be 'P. Higgins', written over a horizontal line.

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